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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,580	05/14/2004	Paul K. MEEKER	43064-0030	3579

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BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP
3800 EMBASSY PARKWAY
SUITE 300
AKRON, OH 44333-8332

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

NOTIFICATION DATE	DELIVERY MODE
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02/27/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RLEAR@BDBLAW.COM
LWAGNER@BDBLAW.COM
IPDOCKETAKRON@BDBLAW.COM

Office Action Summary	Application No. 10/709,580	Applicant(s) MEEKER ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-27, 29-32 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-27, 29-32 and 38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 7-27, 29-32, and 38-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said first to said second position" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 1, 11, 23, 38, 39 the phrase "by sliding movement of said movable component with said fixed component" is unclear rendering the scope of the claims indefinite. The phrase is indefinite as it is unclear how the both the movable component and the fixed component are capable of sliding movement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8, and 10-20, 22-27, 29, 30, 32, and 38-40, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,854,639 to Burleigh et al. in view of U.S. Patent No. 6,478,377 B2 to Kassai et al.

Burleigh et al. disclose a car seat that is basically the same as that recited in claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40, as best understood, except indentations are not specified as extending into the middle section of the movable component, as recited in the claims. See Figures 5-8 of Burleigh et al. for the teaching that car seat has a seat member 72 (see Fig. 5), a back member 78 connected to the seat member, a fixed component (see Diagram A below) of the back member including a flat middle section, a pair of raised contoured sides 80,82 (see Fig. 6), and a contoured surface in cross-section, a movable component 90 of the back member including raised contoured sides 92,94, capable of movement from a retracted position to an extended position, and overlapping the fixed component, an upper headrest area of the movable component (see Diagram A) with a flat middle section, a pair of forward extending wings, and an upper headrest width, and an opposed lower area (see Diagram A) separated from the upper headrest area by a pair of fixed size laterally and inwardly-projecting indentations 126,128 (see Fig. 8 and Diagram A) to accommodate a shoulder belt, fixedly connected to the upper headrest area, including a surface and a contour in cross-section mating the contoured surface of the fixed component, and a lower area width wherein the upper headrest width and the lower area width being essentially the same. See Diagram B illustrating that upper headrest width and the lower area width are essentially the same.

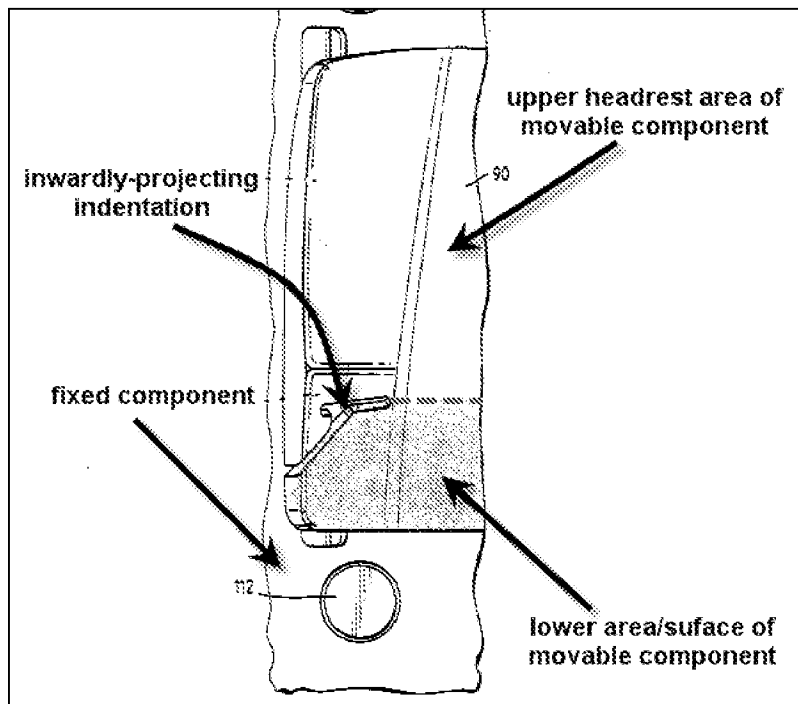


Diagram A - Annotated Figure 8 of Burleigh et al.

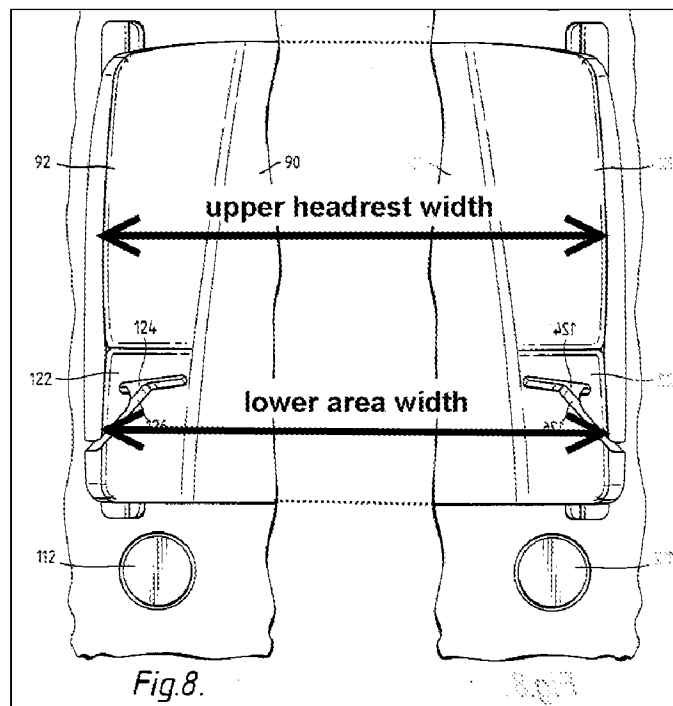


Diagram B - Annotated Figure 8 of Burleigh et al.

Burleigh et al. show a back member wherein the upper headrest area being in invariant fixed relationship to the lower area and separated by the indentations (see Diagram A), the movable component is attached in front of the fixed component, the fixed and movable components being in overlapping essentially gapless and contacting relationship with respect to each other with sliding movement between the components at both the retracted and extended positions (sliding movement of shoe parts 118 along tracks 96,98 - see Fig. 6 - allowing for the gapless relationship), the sliding movement between the components does not increase a size of the indentations between the upper headrest area and lower area, and means for selectively positioning and retaining the movable component relative to the fixed components (the shoe parts and tracks are functionally equivalent to the positioning and retaining structure described in the instant application) that permits incremental discrete movement or infinitely variable movement and is a pair of outwardly biased shafts 118 capable of locking, and telescoping movement of the movable component relative to the fixed component which is fixed by a length of longitudinal channels 96,98 in the fixed component.

Kassai et al. show a car seat similar to that of Burleigh et al. wherein the car seat has a seat member 100 (see Fig. 1), a back member 200, a fixed component (see Fig. 3) of the back member, and a movable component 251,253 of the back member including an upper headrest area 251 with forward extending wings 210 and a lower area 253 separated from the upper headrest area by a pair of fixed sized laterally and inwardly-projecting indentations 252 (see Fig. 5) that extend into a middle section of the movable component and accommodating an automobile shoulder belt. Therefore, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the car seat of Burleigh et al. such that the pair of indentations of the movable component's lower area are fixed sized laterally and inwardly-projecting indentations wherein the indentations extend into the middle section of the movable component and accommodate an automobile shoulder belt through one of the indentations, such as the car seat disclosed by Kassai et al. One would have been motivated to make such a modification in view of the suggestion in Kassai et al. slits in the back member receive a seat belt while being separate from the wings which allows the car seat to have independently adjustable wings.

With respect to the claims 11, 23, and 38-40, limitation "a width between the upper headrest wings and a width of said lower surface between said contoured sides being essentially the same," Burleigh et al. appear to teach that the back member is tapers toward the upper headrest area resulting in the width between the upper headrest wings being slightly less than the width between the lower surface. Kassai et al. teach a back member that appears to have a constant width from the lower surface to the upper headrest. Because both Burleigh et al. and Kassai et al. teach car seats having back members with fixed components and movable components, it would have been obvious to one skilled in the art to substitute the one back member for the other to achieve the predictable result of a seat back with a constant width from the lower area between the contoured side to area between the upper headrest wings.

Claims 8, 20, and 30 recite "locking means," which fails to invoke 35 U.S.C. 112, sixth paragraph, because this recitation does not meet the three prong analysis set forth in MPEP § 2181.

With respect to claim 11 and 13-15, movement of the movable component 90 of Burleigh et al. relative to the fixed component 78 provides contiguous essentially parallel surface support for an occupant's back without increasing the size of the indentations, the inner contour of the movable component mates and nests with an outer contour of the fixed component, and an outer contour of the movable component has a pair of raised surfaces for side support of the occupant.

Claims 9, 21, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh et al. in view of Kassai et al. as applied to claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40 above, and further in view of U.S. Patent No. 6,135,553 to Lovie et al.

Burleigh et al., as modified, disclose a car seat that is basically the same as that recited in claims 9, 21, and 31 except that the lock lacks mating teeth and grooves, as recited in the claims. Lovie et al. show a car seat similar to that of Burleigh et al. wherein car seat has a fixed component 16 (see Fig. 2), a movable component 32,34 capable of movement from a retracted position to an extended position, and a locking mechanism with a track 44 (see Fig. 3) passing through the fixed component and including mating teeth 50,52 and grooves 54,56. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the car seat of Burleigh et al. such that the shoe parts and tracks configuration

includes mating teeth and grooves, such as the car seat disclosed in Lovie et al. One would have been motivated to make such a modification in view of the suggestion in Lovie et al. that the mating teeth and grooves of the locking mechanism provides greater control of the height adjustment of the movable component and prevents unwanted movement of the movable component.

Response to Arguments

Applicant's arguments filed 13 December 2007 have been fully considered but they are not persuasive. With respect to the combination of Burleigh et al. in view of Kassai et al., Applicant argues that Burleigh et al. fail to teach the "width requirement" presented in the claims. Examiner assumes that the "width requirement" refers to the claims 1 limitation of "said upper headrest width and said lower area width being essentially the same." Please note that Examiner reasonably interprets "essentially" as basically, and "the same" as equal in size, shape, value, or importance. Thus, Examiner reasonably interprets "essentially the same" as basically equal in size or shape. See Diagram B above illustrating that Burleigh et al. teach that the upper headrest width and said lower area width are basically equal in size or shape. Thus, Burleigh et al. teach the width requirement presented in the claims. Please note that Burleigh et al. do not imply any geometric requirement, i.e. "definition," precluding these widths from being essentially the same.

Any width requirement arguments applicable to claims 11, 23, and 38-40 have been considered but are moot in view of the new rejection rationale.

Applicant requested clarification regarding Examiner's comment regarding the "locking means" limitation of claims 8, 20, and 30. Please note that "locking means" does not appear to refer to any limitation of claims 1, 11, and 23 as asserted by Applicant. As "locking means" fails to invoke 35 U.S.C. 112, sixth paragraph, under the three prong analysis set forth in MPEP § 2181, Examiner interprets this limitation as a structural limitation.

With respect to Applicant's request for clarification regarding the rejection of claims 11 and 13-15, Burleigh's movable component has a middle section and a pair of raised contoured sides that both mate with the contour of the fixed component. See Diagram C below. The inner contour of the movable component mates and nests with an outer counter of the fixed component.

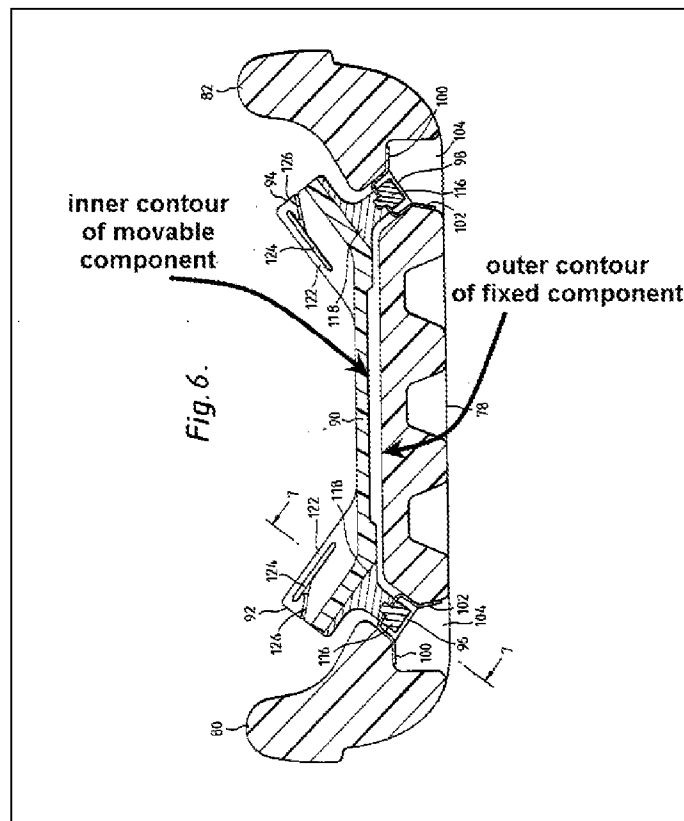


Diagram C - Annotated Figure 6 of Burleigh et al.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/
Primary Examiner, Art Unit 3636
February 28, 2008